

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAMON GUTIERREZ-PEREZ,

Petitioner,

v.

DAVID BREWER,

Respondent.

No. 2:22-cv-0643 AC P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Petitioner is a federal prisoner proceeding pro se with a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2241. By order filed July 12, 2022, the undersigned screened the petition and found that petitioner's claims should have been brought, if at all, in an action for damages under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), or for injunctive relief under 28 U.S.C. § 1331. ECF No. 6. Petitioner was given thirty days to either voluntarily dismiss the action or convert the petition into a complaint for damages and/or injunctive relief and cautioned that failure to do one or the other would result in a recommendation that the petition be dismissed for lack of habeas jurisdiction. Id. After petitioner failed to respond to the order in any way, he was given an additional twenty-one days to voluntarily dismiss the action or convert the petition. ECF No. 7. He was cautioned that failure to do so would result in a recommendation that this action be dismissed without further warning. Id. at 2. Twenty-one days have now passed, and petitioner has once again failed to

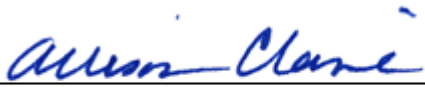
1 respond to the order in any way. It will therefore be recommended that the petition be dismissed
2 for lack of habeas jurisdiction for the reasons set forth in the July 12, 2022 order (ECF No. 6),
3 which is incorporated herein by reference.

4 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall randomly
5 assign a United States District Judge to this action

6 IT IS FURTHER RECOMMENDED that the petition be dismissed for lack of habeas
7 jurisdiction for the reasons set forth in the July 12, 2022 Screening Order (ECF No. 6). See L.R.
8 110; Fed. R. Civ. P. 41(b).

9 These findings and recommendations are submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
11 after being served with these findings and recommendations, petitioner may file written
12 objections with the court. Such a document should be captioned "Objections to Magistrate
13 Judge's Findings and Recommendations." Petitioner is advised that failure to file objections
14 within the specified time may waive the right to appeal the District Court's order. Martinez v.
15 Ylst, 951 F.2d 1153 (9th Cir. 1991).

16 DATED: October 6, 2022

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18 ALLISON CLAIRE
19 UNITED STATES MAGISTRATE JUDGE
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